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PATRIOT SCIENTIFIC CORPORATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ACER INC., ACER AMERICA
CORPORATION AND GATEWAY, INC.

Plaintiffs,

vs.

TECHNOLOGY PROPERTIES LIMITED,
PATRIOT SCIENTIFIC CORPORATION,
AND ALLIACENSE LIMITED,

Defendants.

AND RELATED CROSS ACTIONS.

Case No.: 5:08-CV-00877 JF

**STIPULATION AND ~~PROPOSED~~
ORDER RE PLAINTIFFS' OBJECTION
TO DEFENDANTS' DESIGNATION OF
CONSULTANT PURSUANT TO
SECTION 7.4 OF THE STIPULATED
PROTECTIVE ORDER**

1 WHEREAS, Plaintiffs Acer, Inc., Acer America Corporation, and Gateway, Inc. (collectively,
2 “Plaintiffs” or “Acer”), and Defendants Technology Properties Limited, Patriot Scientific
3 Corporation, and Alliacense Limited (collectively, “Defendants”) entered into a Stipulated Protective
4 Order. Dkt. No. 142.

5 WHEREAS, per Section 7.4 of the Stipulated Protective Order, on August 2, 2010, Acer filed
6 its timely objection to TPL’s request to disclose Plaintiffs’ “Highly Confidential – Attorneys’ Eyes
7 Only” information and items to Dr. Vojin Oklobdzija and their use of him as an expert/consultant.
8 Dkt. No. 172.

9 WHEREAS, the parties have engaged in further meet and confer discussions over
10 Defendants’ designation of Dr. Oklobdzija and have reached a compromise that would permit
11 Defendants to disclose Plaintiffs’ “Highly Confidential – Attorneys’ Eyes Only” information in this
12 action.

13 WHEREAS, based on the parties’ agreement below, Acer will withdraw its objection to
14 Defendants’ request to disclose Plaintiffs’ “Highly Confidential – Attorneys’ Eyes Only” information
15 and items to Dr. Oklobdzija.

16 ACCORDINGLY, IT IS HEREBY STIPULATED THAT:

17 1. Dr. Oklobdzija will provide a declaration as agreed by the parties, which will describe
18 in detail his work for Acer in *Acer Inc. and Acer America Corp. v. Hewlett-Packard Co.*, Case No. 07
19 C 0620 C (W.D. Wis.) (“the *Acer v. HP* action”) and confirm that:

20 (a) He did not have any access to and never received any Acer confidential and
21 proprietary information and documents relating to its products or any Acer-related attorney-client
22 privileged or work product information;

23 (b) He no longer possesses and has destroyed everything related to his work in the
24 *Acer v. HP* action;

25 (c) He will continue to abide by the terms of his retainer agreement with Acer’s
26 attorneys in the *Acer v. HP* action, Dechert LLP, and the terms of the protective order entered in that
27 action; and

28 (d) He has not and will not disclose or use anything he learned through his work in

1 the *Acer v. HP* action, or learned about U.S. Patent No. 6,075,686 (“the ‘686 patent”) or any other
2 patents asserted by Acer in the *Acer v. HP* action.

3 2. Defendants agree that they will not ask, inquire about or use anything that Dr.
4 Oklobdzija learned through his work in the *Acer v. HP* action or learned about the ‘686 patent;

5 3. Defendants further agree if the ‘686 patent or any other patents asserted by Acer in the
6 *Acer v. HP* action is ever asserted against them in another action, they will not use Dr. Oklobdzija as
7 an expert or consultant in relation to those patents;

8 4. It is understood and agreed by the parties that by allowing Defendants to use Dr.
9 Oklobdzija, Acer and its attorneys have not and are not waiving any claim of confidentiality,
10 privilege or work product, including in relation to the ‘686 patent or Dr. Oklobdzija's work in the
11 *Acer v. HP* action. Further, Defendants agree that they will not argue that any such a waiver has
12 occurred.

13 5. Defendants agree not show Dr. Oklobdzija any of Plaintiffs’ Designated Materials
14 until delivery of the declaration from Dr. Oklobdzija that meets the foregoing requirements.

15 6. Based on the forgoing and Defendants’ service of a conforming declaration from Dr.
16 Oklobdzija, Acer agrees to withdraw its objection to Defendants’ designation of Dr. Oklobdzija under
17 the Stipulated Protective Order.

18
19 Dated: August 11, 2010

K&L GATES

20 By: /s/ Jeffrey M. Ratinoff
21 Jeffrey M. Ratinoff

22 Attorneys for Plaintiffs ACER, INC., ACER
23 AMERICA CORPORATION and
24 GATEWAY, INC.
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26
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28

1 Dated: August 11, 2010

FARELLA BRAUN & MARTEL LLP

2 By: /s/ Eugene Y. Mar
3 Eugene Y. Mar

4 Attorneys for Defendants
5 TECHNOLOGY PROPERTIES LIMITED
6 and ALLIACENSE LIMITED

7 Dated: August 11, 2010

KIRBY NOONAN LANCE & HOGE, LLP

8 By: /s/ Charles T. Hoge
9 Charles T. Hoge

10 Attorneys for Defendant
11 PATRIOT SCIENTIFIC CORPORATION

12 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

13 Dated: August 16, 2010

14 
15 THE HONORABLE HOWARD LLOYD
16 UNITED STATES MAGISTRATE JUDGE

ATTESTATION PER GENERAL ORDER 45

I, Jeffrey M. Ratinoff, am the ECF User whose ID and password are being used to file this Stipulation. In compliance with General Order 45, X.B., I hereby attest that Eugene Y. Mar and Charles Hoge have concurred with this filing.